

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

KEVIN WILLIAMS,

Plaintiff,

vs.

Civ. No. 02-454 WWD/RLP ACE

SANDIA HEATING AND PLUMBING,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff's Motion for Summary Judgment [docket no. 17] filed December 4, 2002. Plaintiff, who is black, applied for a job as a plumber's helper after reading a notice that had been posted by a third party advertising the position. Plaintiff contends that he demonstrated to Defendant that he was qualified for the position at the time he made his application. In support of this position, Plaintiff brings in later testimony of one of Defendant's officers who had by the time of that testimony heard Plaintiff's exposition of his experience in Plaintiff's deposition. There is conflict as to whether Plaintiff gave the same information to Defendant at the time he applied for the plumber's helper job. Since the question as to whether, at the time of his application, Plaintiff appeared to be qualified is disputed, Plaintiff fails to make such a prima facie showing as warrant entry summary judgment.

**WHEREFORE,**

**IT IS ORDERED** that Plaintiff's Motion for Summary Judgment [docket no. 17] be, and it is hereby, DENIED.

  
UNITED STATES MAGISTRATE JUDGE